



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.17583 of 2017

M.Anbuchelvan

.. Petitioner

Vs.

1. The Central Information Commission
rep. by its Chief Information Commissioner
(Second Appellate Authority under the
Right to Information Act, 2005),
2nd Floor, 'B' Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi - 110 066.

2. The General Manager/HR/
Bharat Sanchar Nigam Ltd.
(First Appellate Authority under the
Right to Information Act, 2005),
No.2, Rathinasamy Road, Bibikulam,
Madurai - 625 002.

3. The Deputy General Manager/HR,
Central Public Information Officer, (CPIO),
O/o.the General Manager,
Bharat Sanchar Nigam Ltd.,
No.2, Rathinasamy Road, Bibikulam,
Madurai - 625 002.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent made in Appeal No.CIC/BSNLD/A/2017/126065, dated 31.08.2017 and the impugned order passed by the third respondent dated 17.08.2016 made in No.GGI-53/LC/RTIA/15-16/3 and to quash the same and consequently direct the third respondent herein to furnish the tower locations as detailed in the RTI Application of the petitioner, dated 28.07.2016.

For Petitioner
For Respondent No.1
For Respondents 2 and 3

: Mr.T.C.S.Raja Chockalingam
: Mr.R.Murugappan
: Mr.R.Murali
for Mr.K.Govindarajan

**ORDER**

This writ petition has been filed seeking a writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent made in Appeal No.CIC/BSNLD/A/2017/126065, dated 31.08.2017 and the impugned order passed by the third respondent dated 17.08.2016 made in No.GGI-53/LC/RTIA/15-16/3 and direct the third respondent to furnish the tower locations as detailed in the RTI Application of the petitioner, dated 28.07.2016.

2.Heard both sides.

3.The case of the petitioner is that with regard to missing of one Muthulakshmi, aged about 15 years, on 09.10.2015, the petitioner has been taken to Kannivadi Police Station by the police officials from his native village viz., Alathuranpatti and put up a false case against him in Crime No.364 of 2015, for the alleged offences punishable under Sections 294(b), 341, 332, 353 and 506(ii) IPC @ Sections 294(b), 341, 324, 332, 353, 506(ii) and 307 IPC and it has been falsely stated that he has been arrested in Muthanampatti Village, which is 15 Kms away from Kannivadi. According to the petitioner, in order to prove the said aspect and also his innocence, he approached the third respondent on 28.07.2016 under RTI Act, seeking to furnish the tower locations of the police officials, who were handling the said case and the third respondent refused to furnish the same stating that it is a third party information, which is exempted under Section 8(1)(j) of RTI Act, 2005, against which, the petitioner filed first appeal before the second respondent and the second respondent also refused to furnish the same. Aggrieved over the same, the petitioner also filed second appeal before the first respondent and the first respondent has refused to furnish the same stating that BSNL is not monitoring the police official work and the disclosure of the information would hamper the law and order problem. According to the petitioner, the petitioner has locus to claim the details, since it is not a third party dispute and he has been directly implicated in a criminal case. Therefore, the petitioner is before this Court with the aforesaid prayer.

4.The learned counsel appearing for the petitioner submits that the information sought for by the petitioner is essential so as to prove his innocence and the same is to be produced before the concerned Criminal Court and therefore the the impugned orders passed by the respondents are liable to be set aside.

5.The learned counsel appearing for the petitioner would also rely upon the Judgment of the High Court of Delhi in WP(C)No.677 of 2013 and CM No.1293 of 2013 [**Union of India v. Anita Singh**], wherein the Judgment in **UPSC v. R.K.Jain** [W.P(C)No.1243/2011] decided on 13.07.2012, has been referred to. In the said Judgment, it has been observed as follows:



"24."Public activity" qua a person are those activities which are performed by the person in discharge of a public duty, i.e., in the public domain. There is an inherent public interest involved in the discharge of such activities, as all public duties are expected to be discharged in public interest. Consequently, information of a person which is related to, or has a bearing on his public activities, is not exempt from disclosure under the scheme and provisions of the Act, whose primary object is to ensure an informed citizenry and transparency of information and also to contain corruption. For example, take the case of a surgeon employed in a Government Hospital who performs surgeries on his patients who are coming to the government hospital. His personal information, relating to discharge of his public duty, i.e., his public activity, is not exempt from disclosure under the Act.

... ..

37. In light of the above discussion, the following principles emerge for the exemption under Section 8(1)(j) to apply:

... ..

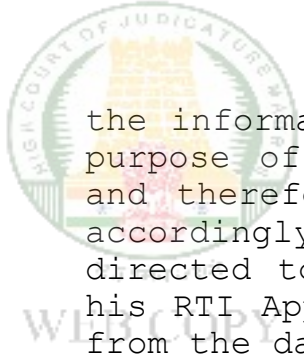
(iii)(a) The information sought should not have relation to any public activity qua such third person, or to public interest. If the information sought relates to public activity of the third party, i.e., to his activities falling within the public domain, the exemption would not apply. Similarly, if the disclosure of the personal information is found justified in public interest, the exemption would be lifted, otherwise not;

OR

(iii)(b) The disclosure of the information would cause unwarranted invasion of the privacy of the individual and that there is no larger public interest involved in such disclosure".

6. The learned counsel appearing for the respondents 1 to 3 would submit that it is a third party information, which is exempted under Section 8(1)(j) of RTI Act, 2005 and BSNL is not monitoring the police official work and the same would hamper the law and order problem and therefore the impugned orders require no interference.

7. It is an admitted fact that the petitioner has been arrayed as sole accused in Crime No.364 of 2015, on the file of Kannivadi Police Station, for the alleged offences punishable under Sections 294(b), 341, 332, 353 and 506(ii) IPC @ Sections 294(b), 341, 324, 332, 353, 506(ii) and 307 IPC. The petitioner sought for details of certain tower locations of cell numbers of police officials, which are the basic materials with regard to the case registered against him and the same shall be placed before the competent Criminal Court. When the petitioner has been implicated in a criminal case,



the information sought for by him shall be furnished to him for the purpose of producing the same before the concerned Criminal Court and therefore the impugned orders are liable to be set aside and accordingly the same are set aside and the respondents 2 and 3 are directed to furnish the details sought for by the petitioner, vide his RTI Application dated 28.07.2016, within a period of two weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of as above. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Information Commissioner,
Central Information Commission,
(Second Appellate Authority under the
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Central Public Information Officer, (CPIO),
O/o.the General Manager,
Bharat Sanchar Nigam Ltd.,
No.2, Rathinasamy Road, Bibikulam,
Madurai - 625 002.
- + 3 CC TO Mr.T.C.S.RAJACHOCKALINGAM, ADVOCATE IN SR No. 81973
+ 1 CC TO Mr.R.MURUGAPPAN, ADVOCATE IN SR No. 81990
+ 1 CC TO Mr.K.GOVINDARAJAN, ADVOCATE IN SR No. 82214

SMN

TE/MR-KKR/SAR-II : 11/10/2017 : 4P/9C

ORDER MADE IN
W.P (MD) No.17583 of 2017
09.10.2017